IN THE

Supreme Court of the United States

OCTOBER TERM, 1960

NO. [illegible]

PAUL GINSBURG, Petitioner,

v.

AMERICAN BAR ASSOCIATION, an Unincorporated Association, JOSEPH D. STECHER, GEORGE B. CHRISTENSEN, THOMAS A. REYNOLDS, JAMES D. HEAD, and WINSTON, STRAWN, SMITH & PATTERSON, a Partnership, Respondents.

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT AND APPENDIX.

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PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT.

To the Honorable, the Chief Justice of the United States and the Associate Justices of the Supreme Court of the United States:

The petitioner, Paul Ginsburg, respectfully prays that a writ of certiorari issue in the above captioned case directed to the United States Court of Appeals for the Seventh Circuit to review its judgment at No. 12914, dated and entered May 6, 1960 (App. 3); and on the Petition for Rehearing therein, the Order denying same, unaccompanied by an Opinion, being dated and entered May 31, 1960.

OPINIONS BELOW

In the United States District Court for the Northern District of Illinois, Eastern Division, District Judge Walter J. LaBuy failed to deliver any Opinions, and that Court's Orders are not reported. The Opinion of the United States Court of Appeals for the Seventh Circuit is reported in 277 F.2d 801, and is appended hereto (App. 1).

JURISDICTION

The judgment sought to be reviewed (App. 3) was dated and entered May 6, 1960. The Order of the Court of Appeals denying the timely Petition for Rehearing was dated and entered May 31, 1960. Therefore, this petition for writ of certiorari may be filed on or before August 29, 1960.

The jurisdiction of this Honorable Court is invoked under 28 U. S. C., section 1254 (1); and the general supervisory power of this Court over lower Federal Courts.

QUESTIONS PRESENTED

1. Whether a Complaint alleging a continuing conspiracy to date and claiming damages as a result thereof from the defendants by reason of damages and injuries to the plaintiff, is (a) sufficient; (b) free from the defense of the Statute of Limitations on a Motion to Dismiss; (c) amendable once as a matter of right, without leave of Court or consent of the defendants, under F. R. C. P. Rule 15 (a), after service of a Motion to Dismiss but prior to service of a responsive pleading; (d) free from Orders of Court upon *ex parte* motions, without proper or adequate Notice to plaintiff, depriving

plaintiff of his right to a day in Court and his right to be heard in advance of judgment; and (e) whether proper service under the applicable Rules by the U. S. Marshal of the Summons and such Complaint as amended is valid.

2. Whether Orders of Court granting a Motion to Dismiss such a Complaint (as amended) for being (a) insufficient; (b) subject to the defense of the Statute of Limitations on motion; (c) not amendable under F. R. C. P. Rule 15 (a); and whether Orders of Court upon *ex parte* motions, without proper and adequate Notice to plaintiff, depriving plaintiff of his right to a day in Court and his right to be heard in advance of judgment, as well as quashing the U. S. Marshal's return of valid service of Summons properly made; enter a conflict with decisions on the same matters of the instant and other Courts of Appeals and with applicable decisions of this Court.

3. Whether the Court of Appeals, in affirming such Orders of Court appealed from, has so far departed from the accepted and usual course of judicial proceedings, or so far sanctioned such a departure by the District Court as to call for an exercise of this Court's power of supervision.

STATEMENT OF THE CASE

On April 30, 1959, the action was commenced by filing of a Complaint in the United States District Court for the Northern District of Illinois, Eastern Division, with jurisdiction based upon diversity of citizenship and an amount in excess of $1,000,000.00, exclusive of interest and costs. Your petitioner as plaintiff named as defendants in the Complaint respondents American Bar Association, George B. Christensen, Thomas A. Reyn-

olds, James D. Head, and others. By the Amendment to the Complaint filed on November 25, 1959, the others were dropped as defendants and respondents Joseph D. Stecher and Winston, Strawn, Smith & Patterson were added as defendants.

In the Complaint it was alleged, *inter alia*, that plaintiff is a member in good standing of defendant American Bar Association, and has been continuously since 1941; that the individual defendants are members of the American Bar Association; that plaintiff is a practicing lawyer, having his office for the practice of law in Pittsburgh, Allegheny County, Pennsylvania, and he is a member in good standing of State and Federal Courts in Pennsylvania and the Supreme Court of the United States; that he is a member in good standing of the Pennsylvania Bar Association and is a member in good standing and past officer of The Allegheny County Bar Association; that in addition to being a practicing lawyer of repute and good standing, he has at all times been a law abiding citizen and has enjoyed a high and excellent reputation in the profession and in his business, social and community relationships; and at no time has he committed any crime or been guilty of unprofessional conduct.

In the Complaint it was further alleged, *inter alia*, that the defendants themselves and through their attorneys, agents and employees, did unlawfully, maliciously and knowingly combine, confederate and agree together and with other persons being members of the bar of the Commonwealth of Pennsylvania, corruptly, conspiratorially, and illegally to destroy the professional standing, integrity, reputation and relationship of plaintiff with and among members of the Bench, Bar and Public

so as to deprive him of his livelihood and property right to practice his profession and otherwise to damage and destroy his credit, good name, fame and property; and they did so in the furtherance of a continuing conspiracy theretofore existing, and thereby advancing and furthering the said conspiracy; and that the said combination and conspiratorial agreement of defendants has been in effect continuously from its inception in 1953 or 1954 to the present time. Also, at the times referred to in the Complaint the defendants knew, or could have ascertained with the exercise of reasonable care, that the plaintiff both personally and professionally had important interests in matters involving millions of dollars, and that their unlawful actions, as aforesaid, could and would destroy said interests, as they did; and that by reason thereof the plaintiff has been injured and damaged in his good name, fame, property, reputation and profession, and has been deprived of valuable contracts, engagements and income amounting to millions of dollars. A jury trial was demanded.

On May 26, 1959, more than 20 days after commencement of the action, plaintiff's Notice of Taking Depositions was filed, pursuant to the Federal Rules of Civil Procedure and particularly Rule 26(a). After service thereof by the United States Marshal, a Motion for Protective Order under Rule 30 on behalf of defendant George B. Christensen, *pro se*, was filed on June 15, 1959, without adequate or proper notice to plaintiff, in order to hinder, obstruct and unduly delay the taking of depositions. The same day, June 15, 1959, Plaintiff's Answer to Motion for Protective Order under Rule 30 and Cross Motion was filed for submission to the Court, showing that the Motion under Rule 30 should be stricken and

dismissed or denied and dismissed because it was not served in accordance with the applicable Rules; failed to comply with Rule 30; was replete with scandal, impertinence, impropriety; and disregarded propriety of pleading, lacked good faith and was dilatory. Although the action was originally assigned to Judge Robson, an Order was entered on June 1, 1959, reassigning the cause to Judge Walter J. LaBuy who, on said June 15, 1959, entered an Order granting the Motion under Rule 30 that plaintiff take no depositions until further Order of Court.

Motions to Dismiss the Complaint and brief in support were filed by defendant George B. Chistensen, *pro se*, on June 22, 1959, and on July 1, 1959, by defendants Thomas A. Reynolds and James D. Head. Plaintiff's Answer to Motion to dismiss of Defendants, George B. Christensen, Thomas A. Reynolds and James D. Head was filed on November 24, 1959, authoritatively showing *inter alia*, that the Complaint fully complied with F. R. C. P. Rule 8 (a), Notice Pleadings; that the Complaint admittedly states a claim upon which relief can be granted; and that there was no bar of Statute of Limitations which defense, at any rate, was waived pursuant to Rule 12 (h) because it was not pleaded under Rule 8 (c).

On August 31, 1959, a Motion to Dismiss was filed on behalf of defendant, American Bar Association, and its memorandum in support thereof was filed on September 4, 1959. On October 5, 1959, Plaintiff's Answer to Motion to Dismiss of Defendant, American Bar Association, was filed authoritatively showing, *inter alia*, that said defendant was legally served and subject to the Court's jurisdiction and had submitted to the Court's jurisdiction;

that the Complaint is sufficient, and admittedly so; and that there was no bar of the Statute of Limitations which defense at any rate was waived pursuant to Rule 12 (h) because it was not pleaded under Rule 8(c).

On October 6, 1959, American Bar Association's Motion for submission of its Motion to Dismiss without oral argument was filed. On November 23, 1959, Plaintiff's Answer to the American Bar Association's Motion for Submission Without Oral Argument and Request for Oral Argument was filed, showing, *inter alia*, that said defendant's Motion erroneously presumes no opposition to its Motion to Dismiss; that plaintiff's answer supported the point that the Motion to Dismiss should be denied; and that plaintiff requested his right to oral argument.

On October 5,1959, an Order had been entered by Judge LaBuy placing the cause on the passed case calendar call for December, 1959. Nevertheless, on November 30, 1959, without any notice whatever and in disregard of said Order, Judge LaBuy entered an Order that the Motions to Dismiss the Complaint be sustained and the Complaint be dismissed for failure to state a claim upon which relief can be granted. By that Order, Judge LaBuy necessarily overlooked or misapprehended the record fact that on November 25, 1959, plaintiff's Amendment to the Complaint had been filed.

On December 8, 1959, plaintiff's Motion for Reconsideration and Oral Argument was filed for submission, praying that said Order of November 30, 1959, be vacated and the case set for oral argument on the motions and answers thereto, and, upon reconsideration, defendants' motions to dismiss the Complaint be denied; show-

ing, *inter alia*, that the cause had been set for December, 1959; that the Court did not have the entire record before it; that the Court considered only the defendant's briefs and had it considered also the plaintiff's Answers, it would have denied defendants' motions pursuant to the Rules and applicable law; that plaintiff's then undisposed of Amendment to the Complaint previously filed was absolutely allowed under Rule 15.(a) without leave of Court or consent of defendants prior to service of a responsive pleading; and that defendants Winston, Strawn, Smith & Patterson and Joseph D. Stecher had not yet pleaded to the Complaint as amended.

On December 8, 1959, defendant Joseph D. Stecher's Motion to Dismiss was filed, and an Order entered the same day granting the Motion, which was not legally or properly noticed, the notice of presentation being received by Plaintiff, at Pittsburgh on the day the Motion was being presented for defendant in Chicago. The same violative Notice of defendant Winston, Strawn, Smith & Patterson's Motion to Quash Service of Summons was received by plaintiff of said motion filed and granted on December 21, 1959.

On December 23, 1959, Judge LaBuy entered an Order denying plaintiff's motion for Reconsideration and Oral Argument, which insupportable and untenable Order, like every other erroneous decision entered throughout the proceedings by Judge LaBuy, was made without permitting the plaintiff his right to appear and to argue orally.

On December 28, 1959, plaintiff's Notice of Appeal was filed and on December 29, 1959, his Bond for Costs on Appeal was filed. The appeal was from the Order of

Court entered November 30, 1959, sustaining defendants' Motions to Dismiss; the Order of Court entered December 8, 1959, granting defendant Joseph D. Stecher's Motion to Dismiss; the Order of Court entered December 21, 1959, granting defendant Winston, Strawn, Smith & Patterson's Motion to Quash Service of Summons; and the Order of Court entered December 23, 1959, denying plaintiff's Motion for Reconsideration and Oral Argument.

On appeal, the Court of Appeals affirmed, delivering an "opinion" that hardly sketched the facts and failed to discuss the contested issues or the propositions of law relied upon authoritatively. The Court of Appeals was simply "satisfied that this appeal raises no substantial question for consideration by this Court and that it is wholly lacking in merit." This petition for writ of certiorari seeks a review of that judgment.

REASONS RELIED ON FOR THE ALLOWANCE OF THE WRIT

I. The Judgment Sought to Be Reviewed Conflicts With Decisions on the Same Matters of the Instant and Other Courts of Appeals and With Applicable Decisions of This Honorable Court.

The conflicts involved herein are on issues of:

sufficiency of the Complaint,

the right to discovery,

no defense of the Statute of Limitations,

the right to amend under F.R.C.P. Rule 15(a),

jurisdiction over an unincorporated association,

the validity of service by the U. S. Marshal within his District, and

the right to a day in Court and to be heard in advance of judgment.

A. The Complaint is sufficient on its face. *Central Ice Cream Co. v. Golden Rod Ice Cream Co.*, 257 F. 2d 417, 418, 7th Cir.; *Conley v. Gibson*, 355 U.S. 41, 45-46; *Leimer v. State Mut. Life Assur. Co.*, 108 F. 2d 302, 304-6, 8th Cir.; *Dioguardi v. Durning*, 139 F. 2d 774, 775, 2nd Cir.; *Continental Collieries v. Shober*, 130 F. 2d 631, 635, 3rd Cir.; *Publicity Building Realty Corp. v. Hannegan*, 139 F. 2d 583, 586-7, 8th Cir.

The decision of the Court of Appeals for the Seventh Circuit in the instant case is the subject of a direct intra-circuit conflict with its decision in the case of *Central Ice Cream Co. v. Golden Rod Ice Cream Co., supra,* wherein that Court cited *Conley v. Gibson*, 355 U.S. 41, the Opinion by Mr. Justice Black (45-6) stating:

> "In appraising the sufficiency of the Complaint we follow, of course, the accepted rule that a complaint should not be dismissed for failure to state a claim unless it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief." Citing *Leimer v. State Mut. Life Assur. Co.*, 108 F. 2d 302, *Dioguardi v. Durning*, 139 F. 2d 774, and *Continental Collieries v. Shober*, 130 F. 2d 631.

In the *Leimer* case, which was remanded with directions to reinstate the plaintiff's amended Complaint and for further proceedings, the Court (p. 306) stated: "No matter how improbable it may be that she can prove her claim, she is entitled to an opportunity to make

the attempt, and is not required to accept as final a determination of her rights based upon inferences drawn in favor of the defendant from her amended Complaint. It will not do to circumvent a determination of a suit upon the merits by accepting an assertion that the claim stated in the Complaint is groundless. 'Lawsuits also often prove to have been groundless; but no way has been discovered of relieving a defendant from the necessity of a trial to establish the fact.' *Myers v. Bethlehem Corporation,* 303 U. S. 41."

In the *Dioguardi* case, the Court (775) stated: "It would seem however, that he has stated enough to withstand a mere formal motion, directed only to the face of the Complaint, and that here is another instance of judicial haste which in the long run makes waste. Under the new rules of civil procedure, there is no pleading requirement of stating 'facts sufficient to constitute a cause of action,' but only that there be 'a short and plain statement of the claim showing that the pleader is entitled to relief,' Federal Rules of Civil Procedure, rule 8(a), 28 U.S.C.A. following Section 723c; and the motion for dismissal under Rule 12(b) is for failure to state "a claim upon which relief can be granted."

In the *Continental Collieries* case, the Court (635) stated: "Under Rule 8(a) (2) of the Federal Rules a plaintiff 'sets forth a claim for relief' when he makes 'a short and plain statement of the claim showing that the pleader is entitled to relief.' See *Sierocinski v. E. I. Du Pont de Nemours Co.*, 3 Cir., 103 F. 2d 843. Technicalities are no longer of their former importance, and a short statement which fairly gives notice of the nature of the claim is a sufficient compliance with the requirements of the rules."

For further support on this proposition see *Nagler v. Admiral Corporation*, 248 F. 2d 319, 323-4, 2nd Cir., citing *U. S. v. Employing Plasters Ass'n of Chicago*, 347 U. S. 186, wherein the Supreme Court reversed the dismissal of a Complaint.

It is elementary that on a Motion to Dismiss, all allegations of the Complaint must be taken as admitted to be true and all inferences therefrom must be construed most favorably towards the plaintiff's case.

It is patent on the record that the Complaint fully complies with Federal Rule 8(a) *Claims for Relief*, which provides that "A pleading which sets forth a claim for relief . . . shall contain (1) a short and plain statement of the grounds upon which the Court's jurisdiction depends, (2) a short and plain statement of the claim showing that the pleader is entitled to relief, and (3) a demand for judgment for the relief to which he deems himself entitled." Rule 8(a) (1) is complied with in paragraph 1 of the Complaint, as amended; Rule 8(a) (2) is complied with in paragraphs 4-14 of the Complaint, as amended; and Rule 8(a) (3) is complied with in the conclusion of the Complaint, as amended.

In the face of the above record, pursuant to Notice Pleadings, how can anyone learned in the law sincerely deny that the Complaint is sufficient? Furthermore, District Court Judges are bound by the Federal Rules of Civil Procedure as by an Act of Congress. *Foltz v. Moore-McCormack Lines, Inc.*, 19 F. R. D. 301, 1956 (Cf. 28 U. S. C., sec. 2072)

B. District Judge LaBuy's refusal to permit plaintiff his right to take depositions was a deprivation of the right to discovery as guaranteed by Rule 26(a) and

applicable decisions thereunder. Procedurally, Judge LaBuy's consideration of defendants' motions to dismiss the Complaint prior to discovery was premature, as he thus would necessarily be incapable of giving plaintiff's Complaint full consideration.

C. An affirmative defense, such as the Statute of Limitations, not pleaded under Rule 8(c) is waived pursuant to Rule 12(h), and is not allowable subsequently by amendment. *Van Sant v. American Express Co.*, 169 F. 2d 355, 372, 3rd Cir. Consequently the defendants waived that defense, assuming *arguendo* they had it. Nevertheless they could not have availed themselves of that defense on a motion to dismiss the Complaint alleging a continuing conspiracy to date as they tried to do, because such a motion admits the allegations of the Complaint to be true.

D. A motion to dismiss is not a responsive pleading; and the plaintiff may amend his Complaint under Rule 15(a) once as a matter of course at any time prior to service of a responsive pleading, without leave of Court or consent of defendant. *Kelly v. Delaware River Land Commission*, 3rd Cir., 187 F. 2d 93, 94, certiorari denied 342 U.S. 812; *Ohio Cas. Ins. Co. v. Farmers Bank of Clay, Ky.*, 178 F. 2d 570, 573; 6th Cir.; *Whittemore v. Continental Mills*, 98 F. Supp. 387, 389; *Picking v. Pa. R. Co.*, D. C. Pa., 5 F.R.D. 280, 281. Thus it is evident as a matter of law that the affirmance of District Judge LaBuy's Orders of Court striking service of Summons for Winston, Strawn, Smith & Patterson; and striking and dismissing the Complaint as amended for Joseph D. Stecher, is quite insupportable and in conflict with decisions in other circuits on the same matter and with applicable decisions of this Court.

E. The District Court had jurisdiction over the American Bar Association and the subject matter of this litigation. Service of the Summons and Complaint upon the American Bar Association by the U. S. Marshal pursuant to Rule 4(d) was effective. *When the service of process was made, the Court's jurisdiction attached. When the Appearance in Court was entered, any objection to venue was waived.*

The most recent pronouncement on this issue is made in the case of *John A. Pavlovscak, appellee, v. John L. Lewis, et al., as Trustees of the United Mine Workers of America Welfare and Retirement Fund, Appellants,* 274 F. 2d 523 (3rd Cir.), affirming 168 F. Supp. 839, certiorari denied on May 23, 1960, at No. 857 October Term, 1959. In the District Court the defendants moved to dismiss the Complaint for lack of jurisdiction and improper venue and to quash process. It was held that the Fund is an unincorporated association and process served on the person in charge of the place where the association carried on activities would not be quashed. It appeared there, as here, that the defendant maintained in its own name an area office, bank accounts, listing in the telephone directory, and was doing business. For purposes of suability and amenability to process, such association is treated as an ordinary unincorporated association and also like a corporate or other entity. Therein it was held that the service satisfied the procedural requirements of Rule 4 (d) (7). In affirming, the Court of Appeals (p. 526) held, "The Supreme Court has accepted much less substantial local activity than we have here in furtherance of an out-of-state enterprise as sufficient to make it reasonable for the state to subject the entrepreneur to the jurisdic-

tion of its Courts. *McGee v. International Life Ins. Co.*, 1957, 355 U.S. 220, 78 S. Ct. 199, 2 L. Ed. 2d 223; *International Shoe Co. v. State of Washington*, 1945, 326 U.S. 310, 66 S. Ct. 154, 90 L. Ed. 95." In denying rehearing, the Court of Appeals (p. 527) held it is now established that said enterprise is suable in Pennsylvania as a foreign "corporation or similar entity."

F. Service of the Summons and the Complaint (as amended) was made on all of the respondents in the Northern District of Illinois, Eastern Division, by the U. S. Marshal for that District. Accordingly, there cannot be any issue of validity of the service. It necessarily follows that District Judge LaBuy's Order quashing the service of Summons on Winston, Strawn, Smith & Patterson was clearly erroneous.

G. It is elementary that every litigant in the United States Courts is entitled to his right to a day in Court and to be heard in advance of judgment. Such fundamental rights are guaranteed by the due process of law clause of the Fifth Amendment to the U. S. Constitution. Nonetheless the Court of Appeals sanctioned District Court Judge LaBuy's deprivations of those rights.

These respondents never complied with Rule 6(a), (d) and (e) of the Rules of Civil Procedure in serving their "notices" and motions by mail, with the result that your petitioner could not be present at any presentations before District Judge LaBuy, who not only sanctioned their unruly violations of the Rules but also himself violated his Order placing the case on the calendar "for December 1959 term" by entering an Order on

November 30, 1959 (without notice), dismissing the Complaint.

At this point this Honorable Court should be informed of the astounding fact that when District Court Judge LaBuy entered his Orders of Court appealed from, he had before him only the Motions and briefs filed on behalf of the defendants. **The authoritative Answers in opposition thereto filed on behalf of your petitioner remained hidden from his view as they reposed in the files of the Clerk's Office. It would be interesting to speculate who is to blame for this departure from the accepted and usual course of judicial proceedings.**

Incredible as it may seem, your petitioner was never permitted to appear before United States District Judge Walter J. LaBuy to argue in opposition to the respondents' motions or in support of his own.

II. The Court of Appeals Has So Far Departed From the Accepted and Usual Course of Judicial Proceedings and So Far Sanctioned Such a Departure by the District Court as to Call for an Exercise of This Court's Power of Supervision.

The judicial and professional misconduct, obvious in this record, are the subject of a National scandal. It has been authoritatively shown herein that the attorneys for the American Bar Association have repeatedly violated the Association's own Canons of Professional Ethics and that they have successfully advocated violations of the Canons of Judicial Ethics by the jurists involved.

In rendering the decision and decrees below, the Judges did not fully comply with the Canons of Judicial

Ethics. There is a grave doubt about violations of Canon 1, Relations of the Judiciary; Canon 2, The Public Interest; Canon 3, Constitutional Obligations; Canon 5, Essential Conduct; Canon 6, Industry; Canon 14, Independence; Canon 19, Judicial Opinions; Canon 20, Influence of Decisions upon the Development of the Law; Canon 22, Review; and Canon 34, A Summary of Judicial Obligation.

No wonder that the Honorable, Earl Warren, Chief Justice of the United States, resigned from membership in the American Bar Association; and the Honorable, Tom C. Clark, Associate Justice of the Supreme Court of the United States, as Chairman of the Association's Section of Judicial Administration about two years ago stated, "Every lawyer has a common concern about breakdown in the administration of justice. The Section of Judicial Administration, A.B.A., offers an opportunity to do something about these problems".

Pursuant to the Canons of Judicial Ethics, Court Opinions, to be above suspicion, should include a full discussion of the facts and issues, the points and authorities in support. It is respectfully submitted that the Per Curiam Opinion of the Court of Appeals does not meet these important standards. It simply indicates that, "We have carefully reviewed these asserted grounds for reversal", without asserting what the grounds are and without discussing the authorities submitted by appellant in support of those grounds. A disclosure of the grounds and authorities would reveal that the rulings and orders appealed from should be reversed and that the affirmance conflicts with the Law of the Land. Accordingly, said opinion is actually scandalous

as to the plaintiff-appellant because from a reading of it nobody would know the truth about the litigation.

Should the American Bar Association not govern by example? Instead of resorting to sharp practices, as it has done in the instant case, should the American Bar Association not bend over backwards to live up to its own canons? It is respectfully submitted that the bad example set herein by the American Bar Association could cause a complete loss of confidence in the Bench and Bar of the United States of America.

A review by this Honorable Court of the judgment sought to be reviewed, will result in a legal adjudication that your petitioner may proceed against the respondents with his right to discovery. Then it will be developed that the American Bar Association has gone too far in its zeal to protect other respondents who, through a fraud upon the Kentucky Court, cheated the Estate of Sallie A. Hert, Deceased, out of millions of dollars, and in the course thereof damaged your petitioner to the extent of millions of dollars; and then repeatedly injured your petitioner subsequently in important property and other rights which money cannot buy.

CONCLUSION

A meticulous regard for the honor of the fair administration of justice in the Federal System requires that this petition for writ of certiorari be granted.

Respectfully submitted,

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APPENDIX

IN THE
UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

SEPTEMBER TERM, 1959—APRIL SESSION, 1960

No. 12914
PAUL GINSBURG, *Plaintiff-Appellant*,
v.
AMERICAN BAR ASSOCIATION, an Unincorporated Association, JOSEPH D. STECHER, GEORGE B. CHRISTENSEN, THOMAS A. REYNOLDS, JAMES D. HEAD, and WINSTON, STRAWN, SMITH & PATTERSON, a Partnership, *Defendants-Appellees*.

Appeal from the United States District Court for the Northern District of Illinois, Eastern Division.

May 6, 1960

Before HASTINGS, *Chief Judge*, DUFFY and CASTLE, *Circuit Judges*.

PER CURIAM. This action was instituted in the district court by plaintiff-appellant, Paul Ginsburg, a practicing lawyer of Pittsburgh, Pennsylvania. Plaintiff seeks to recover damages in excess of $1,000,000 charged to have resulted from an alleged combination and conspiracy among the defendants to destroy his good name and professional standing.

Following an amendment to the complaint, we find the defendants to be the American Bar Association, a voluntary unincorporated association with its principal office in Chicago, Illinois; Joseph D. Stecher, the execu-

tive director of the American Bar Association; George B. Christensen, Thomas A. Reynolds and James D. Head, three Illinois lawyers; and the partnership of Winston, Strawn, Smith & Patterson, a Chicago law firm.

The district court sustained a motion to quash the service of summons upon defendant partnership, Winston, Strawn, Smith & Patterson, and granted various motions by all other defendants to dismiss the complaint. Plaintiff's motion for reconsideration was denied. This appeal followed.

Shortly after original complaint was filed, plaintiff served Notice of Taking Depositions. Defendant George B. Christensen, *pro se,* filed a Motion for Protective Order under Rule 30, Federal Rules of Civil Procedure, 28 U.S.C.A., setting out therein a statement of ten years of unsuccessful litigation in various courts on the part of plaintiff against certain of the instant defendants and others. The protective order was granted.

Plaintiff charges numerous errors relating to the various rulings and orders of the trial court leading up to and culminating in the dismissal of the action. We have carefully reviewed these asserted grounds for reversal.

After plaintiff's brief was filed in this appeal, certain of the defendants-appellees filed their motion for affirmance of the various rulings and orders appealed from in this cause, or in the alternative, to dismiss this appeal. Plaintiff answered this motion, and we ordered that the motion be continued and taken with the case on the merits.

We have given full consideration to the record, the motion for affirmance, and the briefs and oral argument

and have fully considered all of the issues raised therein. We are satisfied that this appeal raises no substantial question for consideration by this court and that it is wholly lacking in merit. We are of the opinion that the proper procedure in this case is to affirm the orders of the district court appealed from herein. See, *Waddell v. Chicago Land Clearance Commission,* 7 Cir., 206 F. 2d 748 (1953); *Securities and Exchange Com'n v. Vacuum Can Co.,* 7 Cir., 157 F. 2d 530 (1946); *Dakin v. United States,* 4 Cir., 105 F. 2d 150 (1939); *Brown v Carver,* 2 Cir., 45 F. 2d 673 (1930); *Robertson v. Wilkinson,* 5 Cir. 10 F. 2d 311 (1925).

The rulings and orders appealed from are

AFFIRMED.